

ARTICLE 18.5-02

MEDIATION AND CREDIT ASSISTANCE

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CHAPTER 18.5-02-01 GENERAL PROVISIONS

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18.5-02-01-00.1. Definitions. In title 18.5, unless the context or subject matter otherwise requires:

1. "Administrator" means the administrator of the agricultural mediation service, appointed by the commissioner to administer the service.
2. "Commissioner" means the commissioner of the state department of agriculture.
3. "Formal mediation" means the process of formal meetings between a farmer and another person, initiated by request of either the farmer or another person. Formal mediation meetings must be held with the objective of obtaining a voluntary settlement of the farmer's problems and providing for the future conduct of financial relations between the parties. Settlement must be satisfactory to all parties and must have a goal of permitting the farmer to reside in the farm residence and to continue to produce agricultural commodities. Formal mediation must always result in issuance of a mediation report. A negotiator may be assigned to assist a farmer in formal mediation.
4. "Informal mediation" means the process of assisting a farmer to obtain settlement. The administrator shall assign a negotiator to assist an eligible farmer in informal mediation. The negotiator will

provide negotiation assistance and information to the farmer regarding problems.

5. "Initiating creditor" means a creditor that has notified the farmer of the availability of mediation.
6. "Mediator" means a person hired by or contracting with the commissioner to do formal mediation work as directed by the administrator.
7. "Negotiator" means a person hired by or contracting with the commissioner to do the negotiating work of informal and formal mediation as directed by the administrator.
8. "Party" means the following:
 - a. For the purposes of chapters 18.5-02-03 and 18.5-02-03.1, any person notified of or attending a formal mediation meeting. For noncredit mediations, only participants who requested, initiated, or offered mediation will be charged mediation fees. Participants attending mediation for the purpose of providing technical support will not be charged.
 - b. For the purposes of chapter 18.5-02-02, any person as determined by the administrator based upon a review of the file and interviews with the negotiator and farmer, if necessary. Parties include persons who provided to, or discussed with, the negotiator information ordinarily deemed confidential, such as financial, mental health, and similar personal information.
9. "Person" means a person as defined in subsection 5 of North Dakota Century Code section 6-09.10-01.
10. "Requesting creditor" means a creditor that has requested mediation.
11. "Service" means the agricultural mediation service established by the commissioner to disseminate information to farmers concerning farm problems, to assist in resolving problems, to provide negotiators to negotiate on behalf of the farmer, and to provide mediators to mediate between a farmer and any other person.
12. "Staff" means a person or those persons hired by the commissioner, who are not mediators or negotiators, but who work directly under the

supervision of the administrator to assist in administering the service or to assist the credit review board in its responsibilities and duties.

History: Effective January 1, 1988; amended effective December 1, 1989; January 1, 1992; June 1, 1994; April 1, 1998.

General Authority: NDCC 6-09.10-09

Law Implemented: NDCC 6-09.10-03, 6-09.10-04

18.5-02-01-01. Eligibility for interest subsidy.

1. Applicants for assistance in the form of an interest subsidy provided by the board pursuant to North Dakota Century Code sections 6-09.10-05, 6-09.10-07, and 6-09.10-08 shall submit or have a negotiator submit on their behalf:
 - a. A signed written petition requiring assistance;
 - b. A completed application form;
 - c. Financial statements as required by the board; and
 - d. Any other information required by the board to determine eligibility or necessary to provide an interest subsidy.
2. An applicant for an interest subsidy provided by the board must be a farmer as defined in subsection 2 of North Dakota Century Code section 6-09.10-01 and otherwise meet the requirements of North Dakota Century Code chapter 6-09.10 and rules adopted pursuant to it.
3. Any person whose right of redemption has expired by the filing of a sheriff's deed prior to submitting an application form or petition is ineligible for assistance in the form of an interest subsidy provided under the provisions of North Dakota Century Code chapter 6-09.10.

History: Effective September 17, 1985; amended effective January 1, 1988; January 1, 1992.

General Authority: NDCC 6-09.10-09

Law Implemented: NDCC 6-09.10-01, 6-09.10-03, 6-09.10-04

18.5-02-01-01.5. Eligibility for assistance of a negotiator. Repealed effective January 13, 1989.

18.5-02-01-02. Application process for interest subsidy. The credit review board will process applications for an interest subsidy as follows:

1. The board will, within thirty days of receipt of a completed application, advise the applicant, in writing, as to eligibility or ineligibility, including a statement as to the reasons for ineligibility.

2. If the information submitted by the applicant is inadequate for further processing, the board shall, as necessary, advise the applicant that the service can assist the applicant in preparation of the application.
3. Any applicant aggrieved by a denial of an interest subsidy by the board may appear in person before the board to present facts or arguments as to why assistance should be provided.

History: Effective September 17, 1985; amended effective January 1, 1988; December 1, 1989.

General Authority: NDCC 6-09.10-09

Law Implemented: NDCC 6-09.10-03, 6-09.10-04

18.5-02-01-03. Negotiations. Repealed effective January 13, 1989.

18.5-02-01-04. Interest subsidies. The following factors and criteria shall be considered by the credit review board in making a determination as to whether interest subsidies shall be provided pursuant to the provisions of North Dakota Century Code chapter 6-09.10:

1. Financial ability to make all payments and meet all financial responsibilities with regard to the proposed loan.
2. The commercial reasonability of the lender's actual rate of interest on the proposed loan.
3. The applicant's desire to stay in the area where the land, which is the subject of the loan, is located, due to community ties, family, and other related reasons.
4. The terms and conditions of the loan, including the amortization schedule and terms of repayment.
5. The lack of other available assets, financing, or resources for financing a home in the area or for refinancing, repurchase, or redemption of the home-quarter.
6. The relationship of the amount of the principal of the loan to the appraised value of the home-quarter as determined by the board.
7. Whether the farmer has an interest in returning to farming and continuing to produce agricultural commodities.
8. The security for the loan and the security for the interest subsidy.

The principal upon which an interest subsidy is approved by the board may not exceed the appraised value of the home-quarter as determined by the board. No interest may be paid by the farmer on any interest rates subsidized by the board

for loans made pursuant to the provisions of North Dakota Century Code chapter 6-09.10.

History: Effective September 17, 1985; amended effective January 1, 1988.

General Authority: NDCC 6-09.10-09

Law Implemented: NDCC 6-09.10-06, 6-09.10-07

18.5-02-01-05. Danger of immediate foreclosure defined. Repealed effective January 1, 1988.

18.5-02-01-06. Written policies. The board shall adopt written policies governing the results sought to be achieved by the board for mediators, negotiators, and staff of the agricultural mediation service in carrying out the provisions of North Dakota Century Code chapter 6-09.10, and this chapter. The agricultural mediation service administrator shall implement the written policies of the board to achieve the results desired by the board as set forth in its written policies.

History: Effective January 1, 1988; amended effective December 1, 1989; June 1, 1994.

General Authority: NDCC 6-09.10-09

Law Implemented: NDCC 6-09.10-03

18.5-02-01-07. Recommendations.

1. The board will meet at least quarterly with representatives of the Bank of North Dakota regarding the Bank's farm loan programs to review policies and procedures of the Bank. Annually, or more frequently if needed, the board will develop and present recommendations to the industrial commission regarding the farm loan programs of the Bank of North Dakota.
2. The board will meet at least quarterly with representatives of the state board of vocational education to review policies and procedures of the board. Annually, or more frequently if needed, the credit review board will develop and present recommendations to the state board of vocational education regarding the adult farm management program.

History: Effective June 1, 1994.

General Authority: NDCC 6-09.10-09

Law Implemented: NDCC 6-09.10-02.1

18.5-02-01-08. Program implementation. Repealed effective April 1, 1998.